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THE WEEKLY NATIONAL INTELLIGENCER.

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DEBATE IN THE SENATE.

CALIFORNIA, TERRITORIAL GOVERNMENTS, &c.

IN SENATE, WEDNESDAY, MAY 15, 1850. The Senate having under consideration the order of the day, to wit, the bill to admit California as a State into the Union, to establish Territorial Governments for Union. Union, to establish Territorial Governments for Utah and New Mexico, and making proposals to Texas for the estab-lishment of her western and northern boundaries—

Mr. FOOTE. It is with feelings of profound regret that I have witnessed the progress of a debate so little, as it seems to me, marked with that spirit of reciprocal moderation and forbearance so important to a pacific and satisfactory settlement of existing differences between the Northern and Southern sections of the Confederacy. There was a period in our legislative history—there have been occasions—when I thought it easy to perceive a disposition, extending through most of the free States of the North, and strongly manifested upon this floor also, to assail the rights of the South with oppressive and unauthorized legislation, and to harass the sensibilities of Southern men with gross discourtesy and insult. On such Southern men with gross discourtesy and insult. On such occasions I have been, like others, provoked to the employment of retaliatory language, and to the declaration of sentiments which it is painful now even to be compelled to bear in remembrance. I had hoped that a reason had at last arrived when we would be able to convenit together calmin and to interest together early and together early an when we would be able to consult together calmly, and to interchange our views freely without resulting at all to the language of crimination and censure; and I trust that of crimination and censure; and I trust that what we have just witnessed will turn out to be nothing more than the effervescence of the moment, to be presently succeeded by feelings more propitious to profitable discussion. The speci-men of heated declamation with which the honorable Senator from Florida (Mr. YULEE) has so unseasonably sup-

Mr. YULEE. If the honorable Senator will permit me, will say that I had not the slightest desire to effer reproach. On the contrary, I have great respect for the motives which influence the committee in their labors. I am sure it would be very far from my purpose, and very far from any feelings which animate me, to express as strongly as might be, and as plainly as might be, my own opinions in reference to this

Mr. FOOTE. I do not at all doubt the honorable Senator' disinclination, as just avowed by him, to awaken unpleasant feelings in any quarter, and I wish I could say that his language was in perfect harmony with his intentions; but I must yet in-sist that what he has thought proper to utter on this occasion is, in my judgment, far from being of a complaisant and conci-liatory character, as I do not doubt he will himself discover to be the case, when he shall read a faithful report of his

spoken words.

Mr. President, I am not at all surprised that the Senator from Florida has been betrayed into the use of somewhat exorbitant language, nor that he should have evinced that special f feeling which has marked all that has fallen from to bringing forward the California bill as a separate proposition. For weeks have we been struggling to ward off from the South the dishonor and injustice which we believed would result from the admission of California separately, spart from those compensating advantages which we believed would result from a general plan of compromise, the adoption of which might permanently settle all those distracting questions which have so long disturbed the public quiet, and placed the vital interests of the South in such imminent danger. We had, after Mexico. Upon the motion to lay the joint bill upon the table, with a view to taking up the Calfornia bill by itself, the Senator from Florida voted with the adversaries of the South, and was very near being the only Southern Senator who did so. Who could doubt, after this, the honorable Senator being by no meens in a compromising mood, who thus refuse to the friends of the present measure even the ordinary facili ties for ameliorating its provisions before the period for its final adoption or rejection should have arrived? Who can feel the least surprise at his having given us a speech so much more declamatory than argumentative, and abounding with phraseology any thing but respec ful and gracious? Let it never be forgotten, that it is the Senator from Florida who has so un-"I will not interchange

necessarily and unseasonably attempted to close the door of compromise; that it is he who has virtually said to our Northfraternal sentiment with you, with a view to the adjustment of questions which have placed the Union itself in serious danger; I will not par ticipate in a plan of settlement which is intended to rescue the South itself from spoliation and ravage; I prefer discord to harmony; scenes of blood and violence to domestic peace and security, and the undisturbed enjoyment of those free in stitutions which our noble forefathers have provided for us.' Mr. President, I shall endeavor, in what I have to say, to avoid the least approximation to that example which has beer set us by the honorable Senator from Florida, and shall ex ert myself es zealously as possible in that work of pacification which is now in such hopeful progress. The question presented to us by the amendment of my honorable colleague is certainly one of some delicacy. The points which have been drawn into discussion, in connexion with that amendment, are both interesting and important, but certainly not at all new, either to the Senate or to the country. There are but few of our intelligent citizens who have not made up, already, a definite and satisfactory opinion upon the great question whether the Mexican laws abolishs slavery are now rigutfully in force in those territorial posses sions recently acquired from the Mexican republic; and mos of them have made up their minds also touching the proba bility of African slavery going into New Mexico, Utah, and California, if unprohibited by law. Our able jurists North and South have argued the legal question, both orally and in writing. and there seems to be about as much diversity of opinion in re-gard to it as has ever marked a controversy of this character. It is my own good or ill fortune to have adopted views of a very ultra Southern cast, both in relation to the present validity of the Mexican laws referred to, and in relative to the adaptedness to slave labor of the whole of that vast region stretching from what were lately the western limits of the United State to the remote Pacific coast. I know that the opinions of the Senator from Kentucky (Mr. CLAY) have been expressed on several occasions in opposition to those which lentertain, both upon the question of law and fact. Nor do attach only slight importance to these opinions of the honorfrom Kentucky. His years, his high character, his extended influence, impart to his opinious, upon all questions connected with the administration of our public concerns an imposing dignity of which I am most profoundly sensible But, sir, high as is my respect for the intellectual faculties of the honorable Senator from Kentucky and his public character, I cannot unite with the honorable Senator from Florida in that conclusion to which he seems to have arrived, that the simple enunciation of his views by the Senator from Kentucky, in the course of debate here, is sufficient to settle at once any question concerning which he may be called upon to pronounce, and that the conclusions of his mind, when once solemnly declared, carry with them such irresistible authority that it is both presumptuous and vain for any offer human being to gainsay them. This is a sort of deference that I have never yet render d to any man, living or dead, and which I should be somewhat ashamed to avow, even were

I cannot take it for granted, as the Senator from Florida seems to do, that if we adopt this measure of compromis, the opinion of the honorable Senator from Kentucky, touching the validity of the Mexican laws abolishing slavery in our newly acquired Territories, will at once become the universal opinion of the country, and even so far operate towards the settlement of the question practically against the South as to call for special preventive legislation on the part of Congress. After all, the honorable Senator from Kentucky is but a single individual: a highly distinguished one truly, and as such entitled vidual; a highly distinguished one truly, and as such entitled to great consideration. But he is not a judicial officer for the decision of the question referred to; and were he even upon the bench, it would be still possible for him to err in judgment. Judges have often done so heretofore; and we should not forget that Blackstone has told us that the opinion of the court and the law are not convertible terms, since it oftentimes happens that the judge mistakes the law.

Territorial Governments in regard to legislating on the sulpert of slavery. I will state my reasons for feeling this indifference. I am not of opinion that these Governments would have a right to legislate for the extension or for the abolition of slavery, even though no prohibition should be imposed upon them. In this opinion I may be regarded by some as a little ultra; but I have adopted it deliberately,

men have generally thought, he made good all the positions which he assumed. But has the honorable Senator from Florida forgotten the potent argumentation upon this question with which we have been favored by the honorable Senator with which we have been favored by the honorable Senator from South Carolina, (Mr. Carroux,) now no longer among us? Has he forgotten how strongly he expressed himself, on all occasions, upon this point? Why, sir, we cannot forget—I trust that some of us ever will cease of remember—that scene in this chamber when the lamented personage referred to made the last declaration of his opinion touching the validity of these Mexican laws, which the honorable Senator from Florida seems to suppose have recently acquired a sort of postrida seems to suppose have recently acquired a sort of post-humous witality. It was when the honorable Senator from Massachusetts had concluded his late masterly speech upon the Wilmof proviso, and other kindred topies, that the illustrious statesman alluded to rose, and, with a scowl of manly indig mation which imparted a peculiar and irrestatible energy to his words, denounced what he described as "the consumnate fully of citing the Mexican law prohibiting slavery in New

Sir, I agreed with this great man then as to the nullity of the Mexican law prohibiting slavery. I agree with him yet; for in the tomb be is as high authority—yea, higher than he was in life. I solemnly believe that there has been no Mexican law since the completion of our territorial conquests in that part of the world which could offer the least impediment to our slaveholding population of the South in any at-tempt which they might feel inclined to make to enter within the limits of California and New Mexico, attended by their slaves as property, and as property, too, secured by the most effectual of all guaranties—to wit, that of the constitution of the republic itself. Such is the opinion, I am persuaded, of every member of that very able bar who control the public judgment in regard to such ques-tions in the State which I have the honor in part to represent upon this floor. Such was the deliberately expressed of of our Mis-issippi Southern Convention, which assembled last autumn, the proceedings of which have been several times brought to the special attention of this body by my honorable colleague and myself. Knowing these facts, it was but natural that I should feel a little surprise that the honorable Senator from Florida should intimate his apprehension that the present state of the law in New Mexico and Utah was such as to make it indispensably necessary that Congress should interfere and afford special protection to slave property in those Territories, in order to save it from destruction by the operation of Mexican laws, which we have been all along thinking and contending were absolutely defunct and in-

Sir, I am deeply grieved at beholding the attempt which seems to be making in certain quarters to hatch into existence a sort of Southern Wilmot proviso. Believing, as I do, most undoubtingly, that Congress has no authority to legislate on the subject of slavery in the Territo-ries—no more than it has to decree the abolition of slavery in the States themselves-I am inexpressibly pained to see him in the course of this debate. He has just now voted for the doubt which is about to be thrown upon this point laying the whole bill upon the table, upon a motion which was designed to give to this measure its quietus, with a view Congress shall legislate for the admission of slavery in the Territories, or that we shall legislate specially for the protection of this institution therein, sppears to me to assert a power in that body which, in its future exercise, cannot but be fatal to the institution of slavery, wheresoever existing. To urge that such an exercise of power by Congress is necessary to the introduction of slaves into the Territories, without which they must be subject to confiscation, and that otherwise slave property will be subject to confiscation, is to admit, interests of the South in such imminent danger. We had, after by the plainest implication, the entire want of any constitu-passing through scenes of excitement such as the country has seldom witnessed, at last succeeded; the California bill had been go into these Territories, attended by their slaves, and to seldom witnessed, at last successed, the seldom witnessed, at last successed, and seldom witnessed, at last successed, mount law, no act of Congress can impart to it the least addi-tional potency; and to seek such puny aid is to treat the organic law of the land with a species of contempt which seems to argue at least a gross confusion of ideas. When the Senator from Florida asks protection for slave property in the Territories, he plainly calls in question the right of the owner of slaves to carry them as such into the Territories, whilst the present legal regulations continue: for, if no laws now exist therein prohibiting slavery, which are not themselves invalid, then we are not in the least degree in need of the amendment urged upon us by him. The very terms used by the honorable Senator from Florida are to me the most alarming. He demands a law preservative of slavery in the Territories he cries out for concessions in regard to slavery to be mad by Congress to the South, and complains most vehemently that the honorable Senator from Kentucky has avowed his unwillingness to vote for a law for the extension of slavery. What! says he, is the Senator from Kentucky not willing to aid in extending slavery to the Territories? Does he so abhor the system that he is unwilling to extend it? Does he regard it as of a nature so contaminating that its extension would be to dishonor and degrade the whole territorial surface over which it might spread itself? Well, sir, I confess that this is very strange language to me, coming as it does from one of the signers of our famous Southern Address, from the

pages of which I beg leave to read a few lines. What cite will be found upon the 8th and 9th pages of the Address "We do not deem it necessary, looking to the object of this address, to examine the question so fully discussed at the last session, whether Congress has the right to exclude the citizens of the South from immigrating with their property into territories belonging to the confederated States of the Union. What we propose in this connxion is, to make a few remarks on what the North alleges, erroneously, to be the issue between us and them.

on what the North alleges, erroneously, to be the issue between us and them.

"So far from maintaining the doctrine, which the issue implies, we hold that the Federal Government has no right to extend or restrict slavery, no more than to establish or abolish it; nor has it any right whatever to distinguish between the domestic institutions of one State, or section, and another, in order to favor the one and discourage the other. As the federal representatives of each and all the States, it is bound to deal out, within the sphere of its powers, equal and exact justice and favor to all. To act otherwise, to undertake to discriminate between the domestic institutions of one and another, would be to act in total subversion of the end for which it was established—to be the common protecter and guardian of all.
Entertaining these opinions, we ask not, as the North alleges we
do, for the extension of slavery. That would make a disdo, for the extension of slavery. That would make a discrimination in our favor, as unjust and unconstitutional as the discrimination they ask against us in their favor. It is not for them nor for the Federal Government to determine whether our domestic institution is good or had, or whether it should be repressed or preserved. It belongs to us, and us only, to decide such questions. What, then, we do insist on is, not to extend slavery, but that we shall not be prohibited from immigrating with our property into the territories of the United States because we are slaveholders; or, in other words, that we shall not on that account be disfranchised of a privilege possessed by all others, citizens and foreigners, without discrimination as to character, profession, or color. All, whether savage, barbarian, or civilized, may freely enter and remain, we only being excluded."

others will not join him in his surprising demand. The Southern address accuses the North of misstating the issue be-The tween it and the South. A Southern man, this moment in our hearing, has made the same presentation of the sectional issue which the Southern address denounces as a misstatement of that issue. The honorable Senator from Florida contends that Congress is bound to pass laws preservative of slavery. The address says: "It is not for them (the Northern people) nor for the Federal Government to determine whether our domest'c institution is good or bad, or whether it should be repressed or preserved." Such are a few of the amusing inconsistencies into which the honorable Senator from Florida has had the fortune to involve himself upon this occasion.

For my part, Mr. President, I feel no particular desire that any restriction whatever should be imposed by us upon the Territorial Governments in regard to legislating on the

But, sir, has the Senator from Florida forgotten that a large number of gentlemen of the legal profession, as seminent as any jurists in harrica, have asserted it to the their optimization of the constant of the treaty of Guadalupe Hidalgo, coupled with the seminary of the conquest, carried the constitution of the Circulation of the constant of the conquest, carried the constitution of the Circulation of the the sovereign States of this Union have a right to enjoy and dispose of the whole territorial domain of the republic, and the citizens of all the States have a right to equal participancy in the enjoyment thereof, which cannot be either denied or contravened without the grossest injustice. The citizens of all the States have a right to remove within the limits of these Territories with any property which they possess, and which is recognised by the constitution of the Union, either generally or specially, and to demand recognition and protection of it as such from the Territorial jurisdiction of the Union and protection of and that he desires to stand now where he did when he united in senctioning that address, and that he will and didners, and that he will abide the principles promulgated in it. I am glad to be able to say to him that I, too, adhere to that platform, and will continue to stand there with him. But he will find, upon further consideration, that there is a very wide difference between the power to inhibit or establish slavery upon the constitution of the Union, either generally or specially, and to demand recognition and protection of it as such from the Territorial jurisdiction of the United States, on the other would be held undeniable.

Mr. YULEE. Will the Senator from Missiasippi allow me to interrupt him for a moment? move within the limits of these Territories with any property which they possess, and which is recognised by the constitution of the Union, either generally or specially, and to demand recognition and protection of it as such from the Territorial The abolition or exclusion of slavery from the limits of the Territory, is not at all indispensable to the needful ends of Government. Therefore the Territorial Government, esta-Government. Therefore the Territorial Government, established, as it must be, under the paramount authority of the federal constitution, can have no authority to interpose impediments to the enjoyment of the full rights of property in slaves, as secured by the constitution, but is bound to consider itself as under the most binding obligation to preserve such rights of property inviolate to the full extent of its capacity to do so. Entertaining this view of the matter, I confess that I can see no necessity for any restriction being imposed by Congress upon the Territorial Government about to be established "in respect to the system of African slavery." If it

hould undertake to legislate for the prohibition or exclusion

f slavery, such legislation would, in my judgment, be a mere

nullity; and so would the courts of the country be bound to that my own motives are such as should guide my conduct at that my own motives are such as should guide my conduct at this momen in the very responsible position which I occupy, rial legislation protective of slavery should be subjected to the same test. I cannot doubt that such legislation would be held valid. It really, therefore, does seem to me, I repeat, much better to adopt no restriction upon this subject at all, and to leave the to adopt no restriction upon this subject at all, and to leave the to adopt no restriction upon this subject at all, and to leave the whole subject to the Territorial Governments and the courts.

Certainly, if climate, soil, and mineral productions are such in the Territories to be supplied with governments as to make the introduction of slaves desirable, it is better for the South that no restriction should be imposed; for there is no instance in this hemisphere of slave labor being found highly profitable in which it has not been introduced, if legal barriers alarm in the bosoms either of Northern or Southern Senators. o its introduction were not provided. If it should be introduced, might be found expedient to legislate for its protection and cherishment, which would be, perhaps, more or less obstructed by any restriction upon territorial legislation which could be On the other hand, if climate, soil, and mineral prouctions are of a nature to make slaves not at all desirable on he score of pecuniary profit, they would certainly never be introduced; and therefore the restriction would be wholly unne-cessary. In any point of view I should prefer a simple Territorial Government without the Wilmot proviso, leaving to the people mestic concerns in a manner conformable to the federal consti-tution. Yet if my friends from the South, with one of whom, clude to insist upon some restriction upon territorial legislation being imposed by Congress, I, who really am more inclined to id in securing a settlement of all existing questions upon honorable and satisfactory terms, than solicitous to have the whole of my own particular views embodied in the plan of comproended for in almost any form which it can be made to assume. I beg leave to suggest, though, that, if we decide out, instead of adopting the amendment of my honorable coleague, which seems to me not to be exactly as explicit as I mount thereto: "either admitting or excluding African slavery." This change in the phraseology of the bill will not at all alter its meaning, but might avoid misinterpretationmisinterpretation to which I know the present terms have been already subjected. I am sure that I could confidently appeal Carolina, (Mr. Calboun,) who, whilst living, enjoyed so claim their recognition as property. It is simply the grossest to all the members of the Committee of Thirteen upon this point, and obtain from each of them a declaration that what they meant to do was simply to prevent the Territorial Gov- tomb.

> mise. [Here Mr. CLAY, Mr. Cass, and Mr. Downs, all Before I bring these rather desultory remarks to a close, it s due to the honorable Senator from Florida that I should notice a fact in his own political history of which he appears to have become strangely oblivious. That gentleman was one of the most zealous champions of what was known among us, two years ago, as the Clayton compromise bill; which bill contained no such provision for the special recognition of slave property in the Territories as that which he now advo-Yet the honorable Senator from Florida was then, as have said, its earnest champion, and united with me and others in censuring those who defeated it in the House of Representatives. Then the honorable gentleman, follow-ing the lead of the venerable Senator from South Carolina (Mr. Calhous) - Teucro, duce-was perfectly content with providing governments for the Territories, without a word being said in reference to slavery of the character now demanded by him—relying upon the courts for the final adjudication of the great question involved. Since that time has seen new lights. The doctrine of the Wilmo school of politicians appears to have arrayed itself in new school of politicians appears to have arrayed these in the terrors to his fancy, and he now not only demands special safeguards against territorial legislation, but insists that Congress shall legislate on the subject of slavery for the protection of the South. Is it possible that the honorable Senator can fail to perceive the egregious inconsistency of his own course? Is he blind enough not to discern the danger which lurks in the Can he doubt that if once allow Congress to legislate on the subject of slavery at all, the whole system of African slavery, as it now exists in the South, will be speedily overwhelmed by that ide of abolition which the most sagacious statesmen of the South have been constantly struggling to repel? Indeed, I am grieved that this attempt to enlist Congress in a course of egislation on the subject of slavery in the Territories of the

of slavery; and, in fact, these will be found to be the very

words employed by the honorable Senator from Kentucky, on Monday last, in exposition of this part of the plan of compro-

Union, should have originated with a Southern Senator.

Mr. YULEE. I shall trespase but a very few moments upon the attention of the Senate. I shall not engage in any controversy with the Senator from Mississippi respecting the consistency of my present position and the views I express with any part of my previous action. The opinions and course of one so humble are not important enough to the country or to this body to be worthy of discussion here. I am content to believe that there is entire harmony in the opin-ions I have entertained upon the issues which divide the two find it deserving their time to scan the record of my course.

I will prefer to address myself directly and singly to the precise question before the Senate. Sir, the Senator, as I

nceive, has not touched the argument of the remarks which offered. What was it? I was seeking to discover whether there was in the section under consideration any concession to the South. I pointed first to the opinion expressed by the Senator from Nentucky, who was chairman of the committee, as ind cating that it was not the intention of the committee to we only being excluded."

Yes, sir, this is the precise language of our own far-famed Southern address. You perceive that its author treats the charge of our being desirous of extending slavery by Congressional legislation as a gross slander upon the South. Yet the honomable Senator from Florida not only now contends that this should be done, but complains most vehemently that others will not join him in his surprising demand. The at all, for it gave us no thing more than we have now without the bill of compromise. I proposed thus to show that this bill had not the character of a compromise, if nothing more

Missi sippi.

I am quite aware that there are differences of opinion with regard to the extent to which the Mexican laws operate in the lately acquired Territories. I know opinions differ as to whether the Mexican laws inhibiting slavery belong to the class denominated lately acquired as inhibiting slavery belong to the class denominated lately acquired as inhibiting slavery belong to the class denominated lately acquired as in a regularly constituted tribunals of the nation.

On yesterday, Mr. President, I avowed the doctrine that class denominated political, or to those which are municipal, and whether the casual opinions expressed by the Supreme Court, which have been often referred to in this body, reach these laws. Why, sir, if the opinion of one so humble had been worthy to be borne in mind, the Senator from Missis sippi might have recollected that, at an period of the controversy, I endeavored in my humble way to express my own judgment against the legal continuance of the Mexican laws abolishing slavery, after the jurisdiction and soversignty of

Mr. HALE. Mr. President —— Mr. FOOTE. I am sure that the honorable Senator from

New Hampshire will give me an opportunity to reply.

Mr. HALE. It is so rarely that the honorable Senator from Mississippi asks that favor of me that I will accord it to him. [Laughter.]

Art. 2007.: I regret that I have not the happiness the harmonize in opinion with cer ain worthy members of this body, with whom I have been in the habit heretofore of cooperating. But, whatever difference of opinion may exist etween us, I trust that no unkindness or estrangement o celing will flow therefrom. I am resolved, at any rate, that it shall not be my fault if angry collisions and permanent separation shall ake place between those who have been heretofore friendly and united in sentiment and in action. Being assured that my owt motives are such as should guide my conduct at my convictins that if this plan of compromise shall be dehave California admitted as a separate measure, those who shall be unlerstood to have been efficiently instrumental in bringing about this result will have an amount of responsibility thrown upor them very difficult to be met. I hope that they will yet pause before they resolve to reject an opportunity of quieting the country and settling all the questions which now disturb its ruose, upon terms alike honorable to both sections of the Confederacy.

Mr. F. gate way for a motion to adjourn.

And the Snate adjourned.

THURSDAY, MAY 16, 1850. The same jubject being under consideration-Mr. FOORE continued his remarks as follows: Mr. President, I eclared, on yesterday, in response to the Sena-tor from Floria, the views which I entertained touching the question which has been so freely discussed on this occasion, a regard to the validity, at the present time, of the Mexican laws abolishing slavery in our newly-acquired Territories. e-asserted the doctrine promulged in the Southern Address and conceavores to show that the Senator from Florida had placed himsell in conflict with that doctrine. I cited as authority especially held in respect by me the address pur forth by the Convention, lately held in the State of Mississippi, out of whose proceedings originated the scheme of the Southern Convention shortly to assemble in Nashville. I sions declared here by several distinguished members of our body, including the late illustrious Senator from South much of the public respect, and whose character and sage teachings come to us now, as it were, canonized from the tomb. In confirmation of all that I have heretofore said upon unessiness which seems to oppress the mind of the Senator rom Florida, in regard to the overwhelming influence which ne fears is to be exerted upon the public judgment of the country by the opinion expressed by the honorable Senator from Kentucky, (Mr. CLAY,) in favor of the validity of these Mexican laws, I will now read a short extract from that admirable address to the people of the Southern States, which emanated during the last summer from the pen of one to those authority, when living, the Senator from Florida was inderstood to pay more than ordinary deference. I allude to Mr. CALHOUN:

"There is another error akin to this, that the Mexican law "There is another error akin to this, that the Mexican law abolishing slavery is still in force in New Mexico and California, when not a particle of its authority or sovereignty remains in either. Their conquest by us, and the treaty that followed, extinguished the whole, and with it annulled all her laws applicable to them, except those relating to such rights of property and relations between individuals as may be necessary to prevent anarchy; and even these are continued only by sufferance, and on the implied authority of the conquering country, and not the authority of the conquered, and only from

by sufferance, and on the implied authority of the conquering country, and not the authority of the conquered, and only from the necessity of the case. Her laws abolishing slavery are not embraced in the exception, and, if it were, it would be taken out of it, as the assent of Congress could not be implied to continue a law which it had no right to establish.

"But still higher ground may be taken. The moment the territory becomes ours, the constitution passes over and covers the whole, with all its provisions, which, from their nature, are applicable to Territories, carrying with it the joint sovereignty and authority of each and all the States of the Union, and and authority of the and an the States of the States, and as weeping away every Mexican law incompatible with the rights, property, and relations belonging to the citizens of the United States, without regard to what State they belong, or whether it be situated in the northern or the southern section of the Union. The citizens of all have equal rights of proof the Union. The citizens of all have equal rights of protection in their property, relations, and person in the common territories of each and all the States. The same power that swept away all the laws of Mexico which made the Catholic religion the exclusive religion of the country, and which let in the religion of all denominations; which swept away all the laws prohibiting the introduction of property of almost every description, some absolutely, and others under the condition of paying duties, and letting them in duty free until otherwise provided for, swept that which abolished slavery, and let in property in slaves. No distinction can be made between it and any other description of property or thing consistently with the constitution and the equal rights of the several States of the Union and their citizens."

Mr. President, I have not concurred with some friends upon this floor, and elsewhere, who have from time to time expressed strong dissatisfaction and regret at the conflict of opinion which has arisen among the distinguished statesmen and jurists of the republic, in the two opposite sections of the Union, in regard to the validity of the Mexican laws abolishing slavery. On the contrary, I have been gra-tified to discover that this diversity of opinion existed, because from it I have felt authorized to deduce the strongest hopes of the ultimate adjustment of that fierce controversy which has so long kept the country in a state of painful disquietude slavery is already shut out by existing laws from our recently with equal confidence rely upon the same judicial tribunals for adjudication in favor of the South. Thus the two exwas meant than was stated by the chairman. That, air, was the gist of the brief argument I offered: and that view of the question has not, I repeat, been touched by the Senator from ment of Territorial Governments, without any special refements of the large stablishment of the rence in the law creating them to the subject of African slavery—leaving the whole matter to be adjusted as, in a re-

> the people of the Territories have a right to establish Governments for their own protection, without being specially authorized to do so by an act of Congress; at the same ment, they would be bound to manifest a proper respect to all the fundamental principles embodied in the federal constituion. Let me repeat the declaration that, in my judgment, the republic imposes the only restriction to tireir constitution on this subject to which they can properly be subjected: within the limits of the co.nstitution they may devise just such a Government in all respects as they may conceive to be neces-

me to interrupt him for a moment

Mr. POOTE. Ob, certainly, for an explanation.
Mr. YULEE. I do not desire to address the Senate again upon this subject, and I therefore wish to attract the Senapromise, and while I saw in it, as I stated yesterday, large see none whatever from the North to the South.

Mr. FOOTE. I think I understand the Senator from Flo-

Mr. YULEE. I shall not detain the Senator long from the prosecution of his remarks. I rose to prevent the necessity, if possible, of the Senator's proceeding in a line of remarks which, it appears to me, do not apply to what I said yes-

Mr. FOOTE. I think they apply, and that very forcibly.
The PRESIDING OFFICER. The Senator from Misissippi having yielded the floor, the Senator from Florida will

proceed with his explanation. Mr. YULEE. I was observing that in this bill I saw many concessions from the South to the North, and I asked if there was any concession from the North to the South. If there was any concession, it could only be some provision containing a distinct recognition of the right of the South to be protected within the Territories of Utah and New Mexico in their slave property; otherwise, there was no concession, because we have now all the abstract rights which the constitution gives us, as fully as we could have them under the bill I was simply examining this bill as a system of compromise; simply inquiring if there was any compensation, any equiva-lent, for the very large surrender made to Northern opinion and interests; and, as I stated, the only shape in wa concession could be made, would be a distinct recognition of what was denied by the North—the right of Southern men to take their slaves into these Territories, and to be protected in the enjoyment of them. Now, sir, I am aware, as I said yesterday, that there are

differences of opinion in this matter. My opinion concurs with that of the Senator from South Carolina, (Mr. CAL-HOUN,) which was read by the Senator. And I do not concur in the opinion of the Senator from Kentucky; but the fact that this difference of opinion exists shows that there is doubt as to the right. The North contends that the Mexican law prevails; the South contends that it does not; and the only way in which you could compromise the difference would be, when you take California for Northern settlement, to give a distinct provision repealing the Mexican laws in Utah and New Mexico, or else declaring, in plain terms, the right of Southern emigrants carrying slaves to be protected there. I have asked for no compromise. I have asked for nothing but our constitutional rights, and we need no other protection than that which the constitution provides. But, if you bring forward a compromise scheme, let it give while it demands cessions. For what we are required to yield let there be

Mr. FOOTE. The gentleman has not mended the matte much, as it appears to me. I am not much in the habit of I have looked over the report of the remarks made by the Senator from Florida yesterday, and, although this which I hold in my hand is a very condensed report of what he said on the occasion, I sm willing to take what is reported, and will thus meet the Senator in some degree upon his own ground. If what I am about to read from the Republic is not in substance correspondent with what the honorable Senator said on yesterday, then I am incapable of understanding plain English.
The Republic reads as follows:

Mr. YULEE (interposing.) From what paper does the

Senator read?

Mr. FOOTE. From the Republic.
Mr. YULEE. The report of my remarks, and the only one which has appeared this morning that I know of, is in

the Intelligencer.

Mr. FOOTE. I have not read the report of the remarks of the Senator from Florida in the Intelligencer. I have them here as reported in the Republic, and the report sppears to me to be remarkably accurate.

Mr. YULEE. I cannot recognise that report; I do not take the paper.

Mr. FOOTE. I think this report, so far as my recollection serves me, is perfectly accurate. It is perhaps not quite so full, as I have already observed, as our reports usually are in the Intelligencer and Union, but it embraces substantially all

that the Senator said upon the point now in dispute, and I speaking that he was employing language which in all probaility be would not like to see hereafter. This is the report "Mr. YULEE said that he was glad the amendment was offered, and, if there were any doubt as to its phraseology, he hoped it would be made so as to be an express acknowledgment of the right to carry slave property to the Territories. He could not support the bill. The committee had made great concessions to the North, and none to the South. It had proposed to admit California, with all her irregularities, as a free State, and had provided no guaranties for the rights of the South. It had reported a bill making a distinction in this District between slave property and all other property, denying to the one the same protection extended to others."

Now, I beg to say that I understood him to say all this pre-" Mr. YULEE said that he was glad the amendment was of-

Now, I beg to say that I understood him to say all this precisely; and I believe that the Senator from Florida himself will hardly deny that he did. I made a speech in reply to him,

in response to which he proceeded to say : "That he had always entertained the opinion that the Mexican laws abolishing slavery were not in force. He had been opposing the bill because it proposed to be a compromise, while there was nothing conceded to the South. Every thing was conceded to the North, and he thought that, as something was due to the South, some such concession to her rights should be inserted in the bill. He still maintained and

In a subsequent stage of the debate the Senator from Flo-

"Mr. YULER said that he knew the South had the right, but he wanted that, in this bill, Congress should recognise, in express terms, the right of the slaveholder to carry his property to the territory, and have it protected and secured in the same maner as other property."

ame manner as other property."

My recollection of the honorable Senator's speech is pre cisely in accordance with this report in the Republic, and doubt not that I am sustained by the recollection of every Senator now present. I am quite indifferent as to any correction of the report in the Intelligercer which the honorable Senator from Florida may have caused to be made in order to avoid the force of my remarks in reply to him. This is easy to be done, as we all know, in such a case.

Mr. YULEE. I did look over the notes of the reporter for the Intelligencer, but I found no necessity to make any alteration beyond one or two verbal corrections. Mr. FOOTE. Well, I will dismiss this matter for the

present. I recollect very well what the Senator said; but certainly if he is disposed now to recall it or explain it away I shall be more than content. Indeed, I should like to know that he had become a thorough convert to the views stated by me on yesterday. I was proceeding, when interrupted, to introduce what I denominated high republican authority in support of the general views insisted upon by myself and others here touching the inherent right of the people to establish a government for themselves; and you will perceive presently, Mr. President, that it was with good reason that spoke of the authority referred to as of a truly republican cast. Let me state one or two particulars here by way of introduction. We all recollect that in the year 1824 a Presidential election occurred, at the end of a political canvass of quite an exciting character, and which may be said to of Louisiana to the North American Union, and their have been in progress for a year or two preceding. There sion to all the rights, privileges, and prerogatives, and

Mr. Adams, who was supposed, by Mr. Taylor and other gentlemen of influence in Virginis, (for what precise reason I am not prepared to state,) to be particularly kindly disposed towards the domestic institutions of the South. There were, however, several distinguished men in Virginia who were decidedly ever, several distinguished men in virginia who made special hostile to the pretensions of Mr. Adams, and who made special exertions to shut him out from the confidence of the good people of the confidence of the good people of the confidence of the good people of the confidence of of that State. General Smythe, then representative in gress from the Wythe district, assailed him fiercely in the public newspapers and in a well-written circular, addressed to his constituents, to which Mr. Adams was advised by his Virginia friends to respond. In the response published by him in 1823, in the columns of the Richmond Baquirer, some extracts from which I have now before me, he vindicated himself with tor's attention to the precise point I made. I have asked his permission to make this explanation in order to say to him that he seems entirely to misapprehend my position, and if he will read the report of the remerks I made yesterday, I am pretty confident he will so find. I claim nothing for the South but the rights which the constitution gives us. I was engaged in the examination of this bill as a scheme of composition and the examination of this bill as a scheme of composition and which I are now before me, he vindicated himself with the energy against the various charges which had been preferred by General Smyths. Before I proceed to read these extracts I will premise that the venerable gentleman who now edits the Union, of this city, was then editor of the Enquirer, and then, as now, universally recognized as an efficient religious professional in the response published by him in 1823, in the columns of the Richmond Enquirer, some extracts from the columns of the Richmond Enquirer, some extracts from the columns of the Richmond Enquirer, some extracts from the columns of the Richmond Enquirer, some extracts from the columns of the various charges which had been preferred by General Smyths. Before I proceed to read these extracts I will premise that the venerable gentleman who now edits the Union, of this city, was then editor of the Enquirer, and then, as now, universally recognized as an engaged in the examination of this bill as a scheme of com-Enquirer, and then, as now, universally recognized as an able an efficient political writer, perfectly informed in party history, and inflexibly devoted to the principles of the Jeffersonian Democratic creed. He was then living in the enjoyment of Mr. Jefferson's fullest confidence, nor was there a distinguished estermen at less confidence, and was there as distinguished. ed statesman at that period in Virginia, of the republican school, who did not entertain for him sentiments of the highest respect and confidence, and yield more than ordinary defer-ence to his judgment in all matters involving the welfare of the republican cause. Mr. Ritchie published the address of Mr. Adams in his paper, and accompanied its publication with a short editorial article commendatory of the general views contained therein, declaring the political doctrines of the address particularly suited to the meridian of the "Old Dominion." will now read the extracts referred to :

"Observe that I do not now deny the existence of this author observe that I do not now deep the extended to retrieve power; and at the time when I was called to record my vote upon it, the question was new to me, and new to Congress with reference to the legislative exposition of the constitution. The principle had not been settled; and it was the first time it had ever been had not been settled; and it was the first time it had ever been made my duty to act, as a member of the Legislature, upon a question involving the extent of the powers of Congress. I believed, as I still believe, that the constitution of the United States was a constitution of limited powers. That some of these powers must be constructive, I never doubted; but that this construction must itself have some limits I was equally convinced; and I could not reconcile it to my judgment that the authority exercised in this section was within the legitimate powers of Congress conformable to the constitution. Were the question now a new one, I have no hesitation in saying that I should retain the same opinion and give the same vote. And I am willing now to record it again; and to leave to my comparty and to posterity the opinion that all the other constructive powers, assumed by Congress from the 4th of March, 1789, to this day put together, are, whether considered in themselves or in their consequences, unequal to the transcendent power assumed, exercised, and granted by that little section."

"It was upon the same principle, a conscientious belief that

assumed, exercised, and granted by that little section."

"It was upon the same principle, a conscientious belief that Congress had not, by the constitution, the power to exercise the authorities contained in them, that, in the course of the same session I voted against the other acts relating to Louisiana enumerated in Gen. Smythe's address to you. They formed altogether a system of absolute and unlimited power, bearing upon the people of Louisiana and exercised by the Congress of the United States. I believed that this power had not been granted to Congress either by the people of the United States or by the people of Louisiana; and when it was assumed by construction, I could not perceive any limitation to the constructive power which could be consistently maintained by those, who could find in the constitution of the United States, authority for the exercise of all these powers in Louisiana. General Smythe has therefore done me great injustice in

drawing from these votes the conclusion that I was governed in giving them either by principles of faction or by hostility to L uisians. It is well known to those with whom I acted structive power, that my voice and opinions were in favor of the acquisition of Louisiana, and of the ratification of the treaty by which it was acquired. The power to make treaties is by the constitution given to the President, with the concurrence of two-thirds of the Senators present upon the question for their advice and consent without limitation. It extends to whatever can form the subject of treaties between sovereign and independent nations. Of the power to make the treaty, therefore, I had no doubt, as having been granted by the constitution. But the power to make a treaty and the power to carry it into execution are, by the organization of our Government, not the same. The former is merely a transaction with a foreign nation. To have limited that would have been to limit the power of the nation itself in its relations of intercourse with other States. It would have been an abdication by the vation itself States. It would have been an abdication by the vation itself States. It would have been an abdication by the ration itself of some of the powers appertaining to sovereignty, and have placed it on a footing of inequality with other sovereigns. But the latter, the power to carry a treaty into execution, imports the exercise of the internal powers of Government, and was subject to all the limitations prescribed by the constitution to the exercise of those powers. In the very message by which President Jefferson communicated this treaty to Congress, after its ratification had been exchanged, he said, 'you will observe that some important conditions cannot be carried into execution but with the aid of the Legislature.' This is a circumstance, common to many treaties: and has frequently cumstance common to many treaties; and has frequently given occasion to debates in the House of Representatives how far they are bound to sanction, in their legislative capacity, stipulations with foreign nations, solemnly made and ratified by the treaty-making power. But the Louisiana purchase-treaty did, in my opinion, to be carried into execution, require must say that I thought at the time the honorable Senator was treaty did, in my opinion, to be carried into execution, require something more. It required the exercise of powers which had something more. It required the exercise of powers which had not been granted to Congress itself; of powers reserved by the people of the United States to themselves, and of powers inherent by natural right in the people of Louisiana. The union of the two people required the express and formal consent of both. So far as the rights of France were concerned, they had been extinguished by the treaty. To appropriate and pay the money stipulated for the purchase of the territory, I believed to be within the legitimate powers of Congress; though even that was a constructive power. But that the social compact, with all its burdens and all its blessings, all its privileges and all its powers, should be formed between the people of the United States and the people of Louisiana, was, according to the theory of human rights which I had learned from the Declaration of Independence, an act, the sanction of which coaldclaration of Independence, an act, the sanction of which coaled be consummated only by themselves. The people of the United States had not, much less had the people of Louisians, given to the Congress of the United States the power to form this union. And until the consent of both people should be

this union. And until the consent of both people should be obtained, every act of legislation by the Congress of the United States over the people of Louisiana, distinct from that of taking possession of the Territory, was in my view unconstitutional, and an act of usurped authority.

"My opinion, therefore, was that the sense of the people, both of the United States and of Louisiana, should immediately be taken: of the first, by an amendment of the constitution, to be proposed and acted upon in the regular form; and of the last, by taking the votes of the people of Louisiana immediately after possession of the territory should be taken by the United States under the treaty. I had no doubt that the consent of both people would be obtained with as much ease and little more loss of time than it actually took Congress to prespare an act for the government of the Territory; and I thoughts. pare an act for the government of the Territory; and I thought that this course of proceeding, while it would terminate in the same result as the immediate exercise of ungranted transcendental powers by Congress, would serve as a landmark of cordental powers by Congress, would serve as a landmark of correct principle for future times, as a memorial of homage to the fundamental principles of civil society, to the primitive sovereignty of the people, and the unaliceable rights of man. "Entertaining these opinions on the 3d of November, 1803,. I voted with the majority for the kill appropriating \$11,250,000 to carry into effect the Louisiana convention; and in a speech to the Senate upon the passage of that bill, the substance of which was printed in the National Intelligencer of 25th November, 1803, declared at once my approbation of the measure, and my belief that, to carry the treaty into entire execution, an amendment to the constitution would be accessary. ion, an amendment to the constitution would be necess tion, an amendment to the constitution would be necessary.

My vote on this bill is recorded in the same journals of the
Senate to which Gen. Smythe has resorted to find his charges. Senate to which Gen. Smythe has resorted to find his charges against me; but he has not thought proper to notice cither that or the printed speech, which, if known to him, leaves him without excuse for representing to you my votes upon the other bills of that session relating to Louisiana as having been dictated by the spirit of faction, or by hostility to Louisiana.

"On the 25th of November, 1803, as appears by the same journals of the Senate, I moved for the appointment of a committee to inquire whether any, and, if any, what further assession treaty, with leave to report by bill or otherwise. It was that the committee should prepare and report for the consideration of the Senate an amendment to the constitution and a bill prescribing the form in which the sense of the people of Louisiana should be taken to sanction, in the only form in which I conceived it could lawfully be accomplished, the union of the two people into one—the mnexation of the inhabitants of Louisiana to the North American Union, and their accession to the sanction of the inhabitants of Louisiana to the North American Union, and their access.